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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/023,255	12/18/2001	Rex Eugene Murray	2001U012.US	3766
25959	7590	04/16/2004	EXAMINER	
UNIVATION TECHNOLOGIES LLC			PASTERCZYK, JAMES W	
5555 SAN FELIPE, SUITE 1950			ART UNIT	
HOUSTON, TX 77056			PAPER NUMBER	
			1755	
DATE MAILED: 04/16/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/023,255	Applicant(s) MURRAY, REX EUGENE	
	Examiner J. Pasterczyk	Art Unit 1755	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2004 and 25 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 and 37-41 is/are pending in the application.
- 4a) Of the above claim(s) 40 and 41 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 and 37-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-18 and 37-41 are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/10/04</u> . | 6) <input type="checkbox"/> Other: _____ |

1. This Office action is in response to the amendment filed 3/25/04 and the IDS filed 3/10/04 and refers to the first Office action mailed 10/6/03.
2. The abstract of the disclosure is objected to because the first two lines need proofreading, and in the following line insert --in-- after "atoms". Correction is required. See MPEP § 608.01(b).
3. Claims 40-41 as amended are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the addition of a cocatalyst makes the noted claims fall into a different class and subclass than that originally searched for in the present application.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 40 and 41 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

4. Claims 1-15 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for the metal being from groups 3-7, does not reasonably provide enablement for the metal being from later groups in the Periodic Table. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention commensurate in scope with these claims. The current claims are drawn to every transition metal in the periodic table as well as most main group metals. However, the chemistry of the early vs. late transition metals is sufficient different, e.g. the late transition metals being electron rich and not tending to form carbonyl compounds easily compared the electron poor early transition metals which form carbonyl

compounds more readily, that the method of making an early transition metal compound would be expected to be different than that used to make the late transition metal analog, if the two even had analogs with the same ligands in the first place given the requirements of the 18 electron rule. Likewise with the chemistry of the early transition metals vs. the main group metals.

5. Claims 1-18 and 37-39 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, the variable m is still recited in the text, though the structures that used it have been deleted. In the fifth line from the bottom "is a heteroatom" is redundant as well as being a broader limitation followed by the narrower limitation of the actual identity of the atoms.

In claim 37, fifth line from the bottom, delete the first "a" after "R is".

6. The examiner further notes informally that in claim 6, second line, --the group consisting of-- should be inserted after "selected from" for proper closed Markush language. In claim 7, that L contains 1-50 non-hydrogen atoms is inconsistent with L being hydrogen alone. In claim 8 insert --is-- before "selected from" in the penultimate line. In claims 15 and 16, l. 3 and 2 respectively, --the group consisting of-- should be inserted after "selected from" for proper closed Markush language. This should also be done to l. 2 of claim 18. In claim 38 delete the reference to Y since that variable is no longer present.

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

8. Claims 1-18 and 37-39 are rejected under 35 U.S.C. 102(e) as being anticipated by Matsui as cited in and for the reasons of record given in the previous Office action.

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9. Applicant's arguments filed 3/25/04 have been fully considered but they are not persuasive. Matsui at col. 197, l. 20-50, col. 198, l. 1-10, col. 196, l. 15-35, col. 160, l. 15-65, col. 159, l. 20-30, col. 137, l. 30-60; col. 138, l. 1-50, col. 135, l. 30-65, col. 136, l. 1-60, col. 131 all, col. 129, l. 46-65, col. 130 all, col. 121, l. 1-20, col. 122, l. 1-20, l. 35-44, and l. 58-65, col. 104, l. 1-8 and 52-65, col. 94, l. 56-65, col. 45-46, col. 39, l. 55 to col. 40, l. 10, col. 35, l. 55-65, col. 15-24, and col. 2, l. 1-44 disclose examples of ligands and metals still reading on the catalyst precursors of the present claims.

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Pasterczyk whose telephone number is 571-272-1375. The examiner can normally be reached on M-F from 9 to 5:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Bell, can be reached at 571-272-1362. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Mark L. Bell
Supervisory Patent Examiner
Technology Center 1755



J. Pasterczyk

AU 1755

4/9/04